

HOUSE BILL NO. 260

INTRODUCED BY W. JONES

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING ADDITIONAL REVENUE FOR WATER-BASED RECREATION SITE ACQUISITION, OPERATION, MAINTENANCE, AND DEVELOPMENT THROUGH IMPLEMENTATION OF A DECAL FEE FOR VESSELS OPERATED BY PADDLE, OAR, OR SAIL, A USE FEE FOR RECREATION AT STATE FISHING ACCESS SITES, AND AN INCREASE IN RESIDENT AND NONRESIDENT WILDLIFE CONSERVATION LICENSE FEES; AMENDING SECTIONS 87-1-605 AND 87-2-202, MCA BY ALLOWING THE PUBLIC AND UNSUCCESSFUL WILDLIFE DRAWING LICENSE APPLICANTS TO DONATE MONEY FOR RECREATIONAL SITE ACQUISITION; ESTABLISHING AN ACCOUNT FOR PUBLIC DONATIONS DEDICATED TO SITE ACQUISITION AND DIRECTING EXPENDITURES FROM THE ACCOUNT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATES DATE."

WHEREAS, the number of available potential public water-based recreational access sites is dwindling because of the rapid development of desirable sites by the private sector; and

WHEREAS, the Legislature recognizes the benefit to the people of Montana of acquiring water-based recreational access sites and the need to maintain adequate and available funds for recreational access acquisition as those sites become available.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Decal required for vessels powered by paddle, oar, or sail -- exceptions -- RECREATIONAL SITE ACQUISITION account and expenditure of funds.** (1) A person may not launch, retrieve, or operate a vessel powered by paddle, oar, or sail at a public boating access site unless:

- (a) the vessel displays a valid decal in accordance with this section; or
- (b) the vessel is exempted under subsection (7).

(2) The owner or operator of a vessel powered by paddle, oar, or sail shall file an application for a decal with the department. The application must be accompanied by a fee of \$8, plus any service fee chargeable under subsection (3). Any alteration, change, or false statement on the application voids the decal. Upon receipt of the completed application form and fee, the department shall issue to the applicant a decal to place on the

1 vessel.

2 ~~—— (3) The department may contract with a public or private entity to issue the decals and collect the fees.~~
3 ~~The department may pay the entity for those services, or the entity may include a service fee, as established by~~
4 ~~department rule, with the decal cost.~~

5 ~~—— (4) (a) Except as provided in subsection (4)(b), decals expire on December 31 of the year in which they~~
6 ~~are issued.~~

7 ~~—— (b) The department may provide for a decal that is valid for more than 1 calendar year.~~

8 ~~—— (5) The loss, theft, destruction, or abandonment of a vessel for which a decal is issued under this section~~
9 ~~renders the decal for that vessel void.~~

10 ~~—— (6) The decal must be displayed on the vessel where it can be easily seen from another vessel or from~~
11 ~~shore.~~

12 ~~—— (7) This section does not apply to:~~

13 ~~—— (a) a motorboat that has a certificate of ownership, certificate of number, and license decal issued under~~
14 ~~this part when that vessel is operated without its machinery, motor, or engine;~~

15 ~~—— (b) a sailboat 12 feet in length or longer that is otherwise regulated under this part;~~

16 ~~—— (c) an inflatable vessel 7 feet in length or less that does not have a rowing frame;~~

17 ~~—— (d) a pedal-powered boat;~~

18 ~~—— (e) a vessel that is owned by the United States, a state, or a subdivision of the United States or a state;~~

19 or

20 ~~—— (f) a vessel launched and retrieved from private property or a private facility.~~

21 ~~—— (8) Fees (1) DONATIONS~~ collected pursuant to this section must be deposited in a state special revenue
22 fund to the credit of the department, for use by the department ~~as follows:~~

23 ~~—— (a) up to 10% may be used for boating and water safety education and enforcement; and~~

24 ~~—— (b) remaining funds must be used for acquisition, operation, maintenance, and development of~~
25 ~~water-based recreational sites and fishing and boat access sites~~ BUT MAY NOT BE USED TO ACQUIRE PROPERTY
26 THROUGH CONDEMNATION OR EMINENT DOMAIN PROCEEDINGS.

27 ~~(9)(2)~~ The department shall accept public donations to the account established in subsection ~~(8) (1)~~ and
28 shall establish a method by which a person who is entitled to a refund of an unsuccessful wildlife drawing
29 application LICENSE fee may donate the refund to the account for the purposes established in subsection ~~(8) (1)~~.

30 ~~(10) The department shall adopt rules following a negotiated rulemaking process between the~~

department and affected interests pursuant to Title 2, chapter 5, part 1. The rules must be based on user surveys taken at the point of decal sale.

~~NEW SECTION. Section 2. Fishing access use license -- use fee for recreation at fishing access sites -- use of fee revenue.~~ (1) A person who wishes to use a state fishing access site and who has not purchased a wildlife conservation license shall purchase and display a fishing access use license. The amount of the fee for the fishing access use license must be established by rules adopted by the fish, wildlife, and parks commission. The license does not include overnight camping or other applicable fees.

~~(2) Payment of the fee in subsection (1) entitles the holder and the occupants of a private noncommercial vehicle to use of state fishing access sites during the license year in which the license is issued. The license must be displayed in the user's vehicle.~~

~~(3) Fee proceeds collected pursuant to this section must be placed in the account created by [section 1(8)] and must be used in the manner and for the purposes set out in [section 1(8)].~~

~~Section 3. Section 87-1-605, MCA, is amended to read:~~

~~"87-1-605. Fees used to purchase recreational facilities. (1) One dollar of the fee for a Class A resident fishing license, 10% of the fee for a Class A-8 resident temporary fishing license, \$1 of the fee for a Class B-4 nonresident fishing license, \$3.50 of the fee for a Class B-5 nonresident fishing license, and \$5 of the fee for a Class B nonresident fishing license, and fees collected pursuant to 87-2-202(3)(e) must be used for the purchase, operation, development, and maintenance of fishing accesses; stream, river, and lake frontages; and the land considered necessary to provide recreational use of fishing accesses and stream, river, and lake frontages.~~

~~(2) The amount of funds used for operation and maintenance must equal at least 50% of the money set aside each year under this section and must be expended as provided in subsection (3). The funds raised under this section may not be used in lieu of any funds or sources of funds currently being used for acquisition or purchase of fishing accesses or stream, river, or lake frontages and the land considered necessary to provide recreational use of fishing accesses and stream, river, and lake frontages but are in addition to those funds. The funds used for operation and maintenance may be used only for these purposes on lands acquired with funds under this section after April 30, 1974.~~

~~(3) Operation and maintenance money set aside each year under this section must be expended based~~

on the following priority:

- (a) weed management;
- (b) streambank restoration; and
- (c) general operation and maintenance."

~~Section 4.~~ Section 87-2-202, MCA, is amended to read:

~~"87-2-202. Application -- fee -- expiration. (1) A wildlife conservation license must be sold upon written application. The application must contain the applicant's name, age, [social security number,] occupation, street address of permanent residence, mailing address, qualifying length of time as a resident in the state of Montana, and status as a citizen of the United States or as an alien and must be signed by the applicant. The applicant shall present a valid Montana driver's license, a Montana driver's examiner's identification card, or other identification specified by the department to substantiate the required information when applying for a wildlife conservation license. It is the applicant's burden to provide documentation establishing the applicant's identity and qualifications to purchase a wildlife conservation license. It is unlawful and a misdemeanor for a license agent to sell a wildlife conservation license to an applicant who fails to produce the required identification at the time of application for licensure.~~

~~(2) Hunting, fishing, or trapping licenses issued in a form determined by the department must be recorded according to rules that the department may prescribe.~~

~~(3) (a) Resident wildlife conservation licenses may be purchased for a fee of \$6.25 \$11.25, of which 25 cents is a search and rescue surcharge.~~

~~(b) Nonresident wildlife conservation licenses may be purchased for a fee of \$9.25 \$19.25, of which 25 cents is a search and rescue surcharge.~~

~~(c) In addition to the fee in subsection (3)(a), the first time in any license year that a resident uses the wildlife conservation license as a prerequisite to purchase a hunting license, an additional hunting access enhancement fee of \$2 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The resident hunting access enhancement fee is chargeable only once during any license year.~~

~~(d) In addition to the fee in subsection (3)(b), the first time in any license year that a nonresident uses~~

~~the wildlife conservation license as a prerequisite to purchase a hunting license, except a variably priced outfitter-sponsored Class B-10 or Class B-11 license issued under 87-1-268, an additional hunting access enhancement fee of \$10 is assessed. The additional fee may be used by the department only to encourage enhanced hunting access through the hunter management and hunting access enhancement programs established in 87-1-265 through 87-1-267. The wildlife conservation license must be marked appropriately when the hunting access enhancement fee is paid. The nonresident hunting access enhancement fee is chargeable only once during any license year.~~

~~—— (e) The amount of \$5 of each resident wildlife conservation license fee paid under subsection (3)(a) and \$10 of each nonresident wildlife conservation license fee paid under subsection (3)(b) must be expended as provided in 87-1-605. Payment of the fee entitles the resident or nonresident to day use of state fishing access sites.~~

~~—— (4) Licenses issued are void after the last day of February next succeeding their issuance.~~

~~—— [(5) The department shall keep the applicant's social security number confidential, except that the number may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.]~~

~~—— (6) The department shall delete the applicant's social security number in any electronic database [5 years after the date that application is made for the most recent license]. (Subsections (3)(c) and (3)(d) terminate March 1, 2006--sec. 9, Ch. 216, L. 2001; bracketed language terminates or is amended on occurrence of contingency--sec. 3, Ch. 321, L. 2001; the \$2 wildlife conservation license fee increases in subsections (3)(a) and (3)(b) enacted by Ch. 596, L. 2003, are void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)"~~

NEW SECTION. Section 2. Codification instruction. (4) [Section 1] is intended to be codified as an integral part of Title 23, chapter 2, part 5, and the provisions of Title 23, chapter 2, part 5, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 23, chapter 1, part 1, and the provisions of Title 23, chapter 1, part 1, apply to [section 2].

NEW SECTION. Section 3. Effective dates DATE. (1) [Section 5 and this section] are [THIS ACT] IS effective on passage and approval.

(2) [Section 1] is effective January 1, 2006.

—— (3) [Sections 2 through 4] are effective March 1, 2006.

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